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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,682	11/09/2001	Michel Schmidt	11954-1920	9711

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EXAMINER

PARSLEY, DAVID J

ART UNIT PAPER NUMBER

3643

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/044,682

Applicant(s)

SCHMIDT ET AL.

Examiner

David J. Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-15 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 10-13 and 21-24 is/are allowed.
- 6) ☒ Claim(s) 14, 15 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## Detailed Action

### *Amendment*

1. This office action is in response to applicant's amendments dated 4-1-05 and 5-3-05 and this action is final.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP Patent No. 1038443 to Meyn in view of U.S. Patent No. 3,137,030 to Varner.

Referring to claim 14, Meyn discloses a holder for suspending and transporting a carcass comprising, a shackle – at 10-11, for suspending a carcass by its legs – see figures 1-2, the shackle formed in an inverted U-shape – see the combination of elements 14 and 16, with downwardly extending legs – at 16, and a narrow support plate – at 7, supported by the lower end of each of the legs – see for example figure 1, an intermediate support plate – at 8-9, positioned between the narrow support plates – see figure 1, and defining with the narrow plates a pair of open ended laterally extending parallel accommodation spaces – see at 3 and 4 in

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figures 1-2, each sized and shaped for receiving the legs of the carcasses – see for example figures 1-2, such that the legs of a carcass can be inserted into one of the ends of the accommodation spaces – see figures 1-3, the carcass suspended by its legs from the holder and carried by the holder to another location and the legs removed from the other ends of the accommodation spaced and upwardly inclined end portions avoid the carcasses falling from the holder – see for example figures 1-2. Meyn does not disclose the narrow plate and the intermediate support plate including upwardly inclined end portions. Varner does disclose the narrow plate – at 17 and the intermediate support plate – at 14 including upwardly inclined end portions – see for example at 14-17 in figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn and add the upwardly inclined ends of the narrow and intermediate support plates of Varner, so as to ensure that the legs of the carcass are securely held in the accommodation spaces.

Referring to claim 15, Meyn as modified by Varner further discloses the upwardly inclined end portions are positioned at one end of the intermediate support plate – see at 14 in figures 1-3 of Varner.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn in view of U.S. Patent No. 5,514,033 to Berry.

Referring to claim 25, Meyn discloses a holder for suspended transport of a poultry carcass comprising, a shackle – at 10-11, for suspending a poultry carcasses by its legs – see for example figures 1-2, the shackle formed in an inverted U-shape – see the combination of elements 14 and 16, with downwardly extending legs – at 16, and a narrow support plate – at 7, supported by the lower end of each of the legs – see for example figures 1-2, an intermediate

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support plate – at 8-9, positioned between the narrow support plates and defining with the narrow support plates a pair of open ended laterally extending parallel accommodation spaces – at 3,4, each sized and shaped for receiving the legs of the carcasses – see for example figures 1-2, such that the legs of a carcass can be inserted into the closer ends of the accommodation spaces, the carcass suspended by its legs from the holder and carried by the holder to another location, and the legs removed from the other ends of the accommodation spaces – see for example figures 1-2. Meyn does not disclose the accommodation spaces at their one ends being closer together than at their other end. Berry does disclose the accommodation spaces – proximate 26' and 27' as seen in figures 6a-6d, at their one ends being closer together than at their other end – see for example figure 6a. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn and add the accommodation spaces being closer at one end than at the other end of Berry, so as to allow for the shackle to securely hold the leg of the carcass.

### *Response to Arguments*

3. Applicant's arguments with respect to claims 14-15 and 25 have been considered but are moot in view of the new ground(s) of rejection.

### *Allowable Subject Matter*

4. Claims 1-8, 10-13 and 21-24 are allowed.

*Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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